

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

MATCH GROUP, INC., a corporation, and
MATCH GROUP, LLC, formerly known as
MATCH.COM, LLC, a limited liability company,

Defendants.

Case No. 3:19-cv-02281-K

**PLAINTIFF FEDERAL TRADE
COMMISSION'S MOTION FOR
A SPECIAL SETTING**

PLAINTIFF FEDERAL TRADE COMMISSION'S MOTION FOR A SPECIAL SETTING

In accordance with Federal Rule of Civil Procedure 16(b)(4) and the Court's November 16, 2022 Amended Scheduling Order, the Federal Trade Commission respectfully moves this Court for a special setting of the trial date in this matter on April 9, 2024 or, alternatively, any date thereafter in April. Trial in this matter is currently set on a three-week trial calendar beginning April 1, 2024, with parties expected to be ready for trial on two days' notice at any time during the three-week period. Dkt. 178 at 2. For the reasons set forth below, good cause exists to set a date certain for trial.

The FTC moves for a special setting to ensure that it can present testimony from its expert witness, Dr. Jennifer King. Dr. King lives in California and works at Stanford University however, she will be temporarily working with the National Telecommunications and Information Administration and the Office of Science and Technology Policy in the White House for six months beginning in March. It is possible that Dr. King will be called to Washington, D.C. sometime in April 2024. Therefore, requiring her to travel to Texas with little notice would impose significant professional and personal burdens on her. Moreover, Dr. King

will be travelling and unavailable for trial the week of April 1 but will be available for trial beginning April 9. Although the Amended Scheduling Order provides that any potential conflicts must be brought to the Court's attention within ten days from the date of the Order, the FTC was unaware of Dr. King's travel schedule during that time.

Dr. King's testimony will provide expert analysis showing why consumers have difficulty interacting with Defendant's online cancellation method, and is highly probative on whether that method is "simple" Therefore, her absence would prejudice the FTC and deprive the Court of important evidence.

Plaintiff estimates this trial will take approximately three weeks.¹ A special setting of April 9, 2024, or a date certain thereafter in April, would ensure Dr. King's availability and allow parties to minimize other potential scheduling conflicts. Because the proposed start date is within the three-week docket period the Court specified in the Amended Scheduling Order, Defendants would be unprejudiced.

Accordingly, the FTC respectfully requests the Court to grant its Motion for a Special Setting and schedule trial in the above-captioned matter for April 9, 2024.

Respectfully submitted,

Dated: February 20, 2024

/s/ Nicole G. H. Conte
NICOLE G. H. CONTE (admitted *pro hac vice*)
JASON MOON
REID TEPFER
SARAH ZUCKERMAN (admitted *pro hac vice*)
JOHN R. O'GORMAN (admitted *pro hac vice*)
ERICA R. HILLIARD

¹ Although Defendants initially agreed to the proposed April 9th start date, the parties could not reach an agreement on the estimated length of trial, which necessitated the filing of this opposed motion. Defendants estimated that trial may be completed in three to four days, which the FTC maintains is infeasible given the complexity of this case and the scope of the evidence. The FTC may revise its trial estimate downward if Defendants agree to reasonable stipulations sufficient for it to do so.

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CERTIFICATE OF CONFERENCE

I certify that this motion was filed following a conference between counsel for the parties by email on January 30, 2024 and February 5, 6, and 7, 2024. After discussing the merits of the Motion, the parties could not come to an agreement on the estimated length of trial and, as a result, Defendants would not agree to the FTC's motion.

/s/ Nicole G. H. Conte
NICOLE G. H. CONTE

CERTIFICATE OF SERVICE

On February 20, 2024, I filed the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas. I hereby certify that I have served the document on counsel by a manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Nicole G. H. Conte
NICOLE G. H. CONTE